

CONTRACT FOR SUPPLY OF GOODS

BY AND BETWEEN
GOVERNMENT OF THE VIRGIN ISLANDS,
DEPARTMENT OF PROPERTY & PROCUREMENT
ON BEHALF OF THE
VIRGIN ISLANDS DEPARTMENT OF HEALTH / DIVISION OF COMMUNICABLE DISEASES
AND
CARDINAL HEALTH P.R. 120, INC.

THIS AGREEMENT is made this 21st day of March, 2019 in the Territory of the Virgin Islands, by and between the Government of the Virgin Islands, Department of Property and Procurement, on behalf of the Virgin Islands Department of Health Division of Communicable Diseases (DOH) (hereinafter referred to as "Government") and Cardinal Health P.R. 120, Inc., of Centro Internacional De Distribucion, Road 165 KM 2.4, Building #10 Local A, Guaynabo, Puerto Rico 009656211 (hereinafter referred to as "Contractor").

WITNESSETH:

WHEREAS, the Government is in need of the services of a Contractor to provide pharmaceutical products and medical supplies, specifically, Antiretrovirals (ART), Sexually Transmitted Diseases (STD), and Tuberculosis (TB) medications at PHS-340B pricing, which duties and responsibilities are more particularly described in Addendum I (Scope of Work) attached hereto;

WHEREAS, the Contractor represents that it is willing and capable of providing such services;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and intending to be legally bound by this written instrument, the parties hereto do covenant and agree as follows:

1. SERVICES

The Contractor will provide the services described in Addendum I (Scope of Work) attached hereto and made a part of this Contract.

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2. TERM

This Contract shall commence upon the execution by the Governor of the US Virgin Islands and shall terminate one (1) year thereafter. This Contract may be renewed on the same terms and conditions for one (1) additional year at the sole discretion of the Government. Any such renewal or extension shall be contingent upon the satisfactory performance of the Contractor and shall be subject to the availability and appropriation of funds. The Government shall give written notice to the Contractor of such extension and/or renewal not less than sixty (60) days prior to the expiration of this Contract.

3. COMPENSATION

The Government, in consideration of the satisfactory performance of the services described in Addendum I (Scope of Work), agrees to pay Contractor the sum not to exceed ONE MILLION TWO HUNDRED THOUSAND AND 00/100 U.S. DOLLARS (\$1,200,000.00) in accordance with the provisions set forth in Addendum II (Compensation) attached hereto and made a part of this Contract.

4. TRAVEL EXPENSES

Inclusive of the compensation for services as specified in Paragraph 3 (Compensation) above, the Government agrees to pay documented transportation, subsistence, lodging and other travel expenses, while in travel status, for trips which have been authorized in writing, in advance, by the Government. These costs shall be advanced or reimbursed on the same basis as is applicable to non-contract employees of the Government, or as agreed to by an addendum to this Contract, however, said costs and expenses shall not exceed N/A (\$ N/A).

5. RECORDS

- (a) The Contractor when applicable, will present documented precise records of time and/or money expended under this Contract.
- (b) Contractor will maintain records pertaining to the Products the Government purchases under this Agreement as required by applicable FDA requirements. Not more than once in any twelve (12) month period, and following sixty (60) days' advance written notice to Contractor, Government may appoint one (1) or more of its employees to review those relevant records applicable to your pharmaceutical purchases for the sole purpose of verifying compliance with the pricing terms of this Agreement. Any such review will be limited to twelve

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(12) months of historical information as of the date such review begins and will be subject to a confidentiality agreement prepared by Contractor and signed by Government and its employee(s) who will have access to the information prior to beginning the review.

6. PROFESSIONAL STANDARDS

The Contractor agrees to maintain the professional standards applicable to its profession and to consultants doing business in the United States Virgin Islands.

7. DOCUMENTS, PRINTOUTS, ETC.

All documents, books, records, instructional materials, programs, printouts and memoranda of every description derived from and pertaining to this Contract by each such party hereto shall become the property of that party. The above described materials shall not be used by either party or by any other person or entity except upon the written permission of the other party hereto.

8. LIABILITY OF OTHERS

Nothing in this Contract shall be construed to impose any liability upon the Government to persons, firms, associations, or corporations engaged by Contractor as servants, agents, or independent contractors, or in any other capacity whatsoever, or make Government liable to any such persons, firms associations, or corporations for the acts, omissions, liabilities, obligations and taxes of Contractor of whatsoever nature, including but not limited to unemployment insurance and social security taxes for Contractor, its servants, agents or independent contractors.

9. ASSIGNMENT

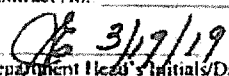
With the exception of delivery and courier services subcontracted by Contractor, the Contractor shall not subcontract or assign any part of the services under this Contract without the prior written consent of the Government which consent shall not be unreasonably withheld.

10. INDEMNIFICATION

Contractor agrees to indemnify, defend and hold harmless Government from and against any and all loss, damage, liability, claims, demands, detriments, cost, charges and expense (including attorney's fees) and causes of action which Government may incur, sustain or be subjected to, arising out of Contractor's performance of services under this

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Contract, breach, gross negligence or wrongdoing under this Contract, except for the negligence of Government.

To the extent permitted by law, Government agrees to indemnify, defend and hold harmless Contractor from and against any and all loss, damage, liability, claims, demands, detriments, cost, charges and expense (including attorney's fees) and causes of action which Contractor may incur, sustain or be subjected to, arising out of Government's breach, gross negligence or wrongdoing in connection with the services to be performed by Government under this Contract, except for the negligence of Contractor.

11. WARRANTY; LIMITATION ON LIABILITY

Contractor is a wholesaler and does not warrant the merchandise it sells. Contractor's liability to Government only extends to its services in conjunction with the merchandise (storage, handling, shipping, etc.). Contractor will transfer to Government (on a non-exclusive basis) any representations and warranties made by the manufacturers of the merchandise to the extent that such representations and warranties are assignable by Contractor, and will cooperate, at no cost to Contractor, with all reasonable requests made by Government to enforce such representations and warranties against such manufacturers. Notwithstanding anything to the contrary herein, Contractor reserves its own rights under such representations and warranties made by such manufacturers and the remedies available to it for any breach of such representations and warranties by the manufacturers.

THERE ARE NO OTHER EXPRESSED OR IMPLIED WARRANTIES, INCLUDING ANY WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE.

CONTRACTOR WILL NOT BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES.

12. INDEPENDENT CONTRACTOR

The Contractor shall perform this Contract as an independent contractor and nothing herein contained shall be construed to be inconsistent with this relationship or status.

13. GOVERNING LAW

This Contract shall be governed by the laws of the United States Virgin Islands and jurisdiction shall remain in the United States Virgin Islands.

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14. WAIVERS AND AMENDMENTS

No waiver, modification or amendment of any term, condition or provision of this Contract shall be valid or of any force or effect unless made in writing, signed by the parties hereto or their duly authorized representatives, and specifying with particularity the nature and extent of such waiver, modification or amendment. Any such waiver, modification or amendment in any instance or instances shall in no event be construed to be a general waiver, modification or amendment of any of the terms, conditions or provisions of this Contract, but the same shall be strictly limited and restricted to the extent and occasion specified in such signed writing or writings.

15. ENTIRE AGREEMENT

This Contract constitutes the entire agreement of the parties relating to the subject matter addressed herein. This Contract supersedes all prior communications, contracts, or agreements between the parties with respect to the subject matter addressed in this Contract, whether written or oral.

16. RIGHT TO WITHHOLD

If work under this Contract is not performed in accordance with the terms hereof, Government will have the right to withhold out of any payment due to Contractor, such sums as Government may deem ample to protect it against loss or to assure payment of claims arising therefrom, and, at its option, Government may apply such sums in such manner as Government may deem proper to secure itself or to satisfy such claims. Government will immediately notify the Contractor in writing in the event that it elects to exercise its right to withhold.

No such withholding or application shall be made by Government if and while Contractor gives satisfactory assurance to Government that such claims will be paid by Contractor or its insurance carrier, if applicable in the event that such contest is not successful.

17. CONDITION PRECEDENT

This Contract shall be subject to the availability and appropriation of funds and to the approval of the Governor. The Government represents and warrants to Contractor that as of the Effective Date, sufficient funds are available and have been appropriated. The Government in its sole discretion shall determine the availability of funds.

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18. TERMINATION

- (a) Either party will have the right to terminate this Contract for convenience on ninety (90) days written notice to the other party specifying the date of termination.
- (b) Either party may effect an early termination of this Agreement upon the occurrence of a material breach by the other party. The non-breaching party must give written notice to the breaching party of the nature and occurrence of such breach. If the breach is not cured by the expiration of sixty (60) days from the date of such notice, or if the breaching party has not made reasonable efforts to effect the cure if the breach cannot reasonably be cured within such sixty (60) day period, then the non-breaching party may, in addition to any and all other rights or remedies it may have, provide written notice to the breaching party that this Agreement will be terminated immediately following the expiration of such sixty (60) day period. In the event of the Government's payment default (herein defined in Addendum I. Section II Payment Terms) Contractor may terminate this Agreement immediately upon providing notice to the Government.

19. PARTIAL TERMINATION

The performance of work under this Contract may be terminated by the Government, in part, whenever the Government shall deem such termination advisable. This partial termination shall be effected by delivering to the Contractor a Notice of Partial Termination specifying the extent to which the term and/or duties under this Contract are terminated and the date upon which such termination becomes effective. The Contractor shall be entitled to receive payment for services provided to the date of termination, including payment for the period of the sixty (60) day notice.

20. NON-DISCRIMINATION

No person shall be excluded from participating in, be denied the proceeds of, or be subject to discrimination in the performance of this Contract on account of race, creed, color, sex, religion, disability or national origin.

21. CONFLICT OF INTEREST

- (a) Contractor covenants that it has no interest and will not acquire any interest direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract.
- (b) Contractor further covenants that it is:

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(1) not a territorial officer or employee (i.e., the Governor, Lieutenant Governor, member of the Legislature, or any other elected territorial official; or an officer or employee of the legislative, executive or judicial branch of the Government or any agency, board, commission or independent instrumentality of the Government, whether compensated on a salary, fee or contractual basis); or

(2) a territorial officer or employee and, as such, has:

- (i) familiarized itself with the provisions of Title 3, Chapter 37 of the Virgin Islands Code, pertaining to conflicts of interest, including the penalties provision set forth in section 1108 thereof;
- (ii) not made, negotiated or influenced this Contract, in its official capacity;
- (iii) no financial interest in the Contract as that term is defined in section 1101(1) of said Code chapter.

22. EFFECTIVE DATE

The effective date of this Contract shall be the day of execution of the Contract by the Governor.

23. NOTICE

Any notice required to be given by the Terms of this Contract shall be deemed to have been given when the same is sent by certified mail, postage prepaid or personally delivered, addressed to the parties as follows:

GOVERNMENT

Anthony D. Thomas, MBA
Commissioner Nominee
Virgin Islands Department of Property and Procurement
Sub Base, Building No. 1, Third Floor
St. Thomas, VI 00802

Justa E. Encarnacion, RN, BSN, MBA/HCM
Commissioner Nominee
Virgin Islands Department of Health
3500 Estate Richmond
Christiansted, St. Croix, VI 00820

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CONTRACTOR Michele Montalvo
VP of Sales & Marketing Cardinal Health P.R. 120, Inc.
PO Box 366211
San Juan, PR 00936-6211

24. LICENSURE

The Contractor covenants that it has:

- (a) obtained all of the applicable licenses or permits, permanent, temporary or otherwise as required by Title 27 of the Virgin Islands Code; and
- (b) familiarized itself with the applicable provisions of Title 27 of the Virgin Islands Code pertaining to professions and occupations.

25. OTHER PROVISIONS

Addendum I (Scope of Work), Addendum II (Compensation) and Addendum III (Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions) attached hereto are a part of this Contract and are incorporated herein by reference.

26. DEBARMENT CERTIFICATION

By execution of this contract, the contractor certifies that it is eligible to receive contract awards using federally appropriated funds and that it has not been suspended or debarred from entering into contracts with any federal agency. The Contractor shall include this provision in each of its subcontracts hereunder and shall furnish its subcontractors with the current "LIST OF PARTIES EXCLUDED FROM FEDERAL PROCUREMENT OR NON PROCUREMENT". In the event the Contractor or any subcontractor misrepresents its eligibility to receive contract awards using federal funds, the Contractor or subcontractor agrees that it shall not be entitled to payment for any work performed under this contract or any subcontract and that the Contractor or subcontractor shall promptly reimburse the Government of the Virgin Islands for any progress payments heretofore made.

27. FALSE CLAIMS

Contractor warrants that it shall not, with respect to this Contract, make or present any claim upon or against the Government of the Virgin Islands, or any officer department, board, commission, or other agency thereof, knowing such claims to be false, fictitious or fraudulent. Contractor acknowledges that making such a false, fictitious or fraudulent claim is an offense under Virgin Islands law.

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28. NOTICE OF FEDERAL FUNDING

Contractor acknowledges that this Contract is funded, in whole or in part, by federal funds. Contractor warrants that it shall not, with respect to this Contract, make or present any claim knowing such claim to be false, fictitious, or fraudulent. Contractor acknowledges that making such a false, fictitious, or fraudulent claim is a federal offense.

IN WITNESS WHEREOF, the parties have hereunto set their hands on the day and year first above written.

WITNESSES:

GOVERNMENT OF THE VIRGIN ISLANDS

Celia Schast
Louise Baa-Benjamin

Justa E. Eacarnacion
Justa E. Eacarnacion, RN, BSN, MBA/HCM
Commissioner Nominee
Virgin Islands Department Health

3/19/19
Date

[Signature]
Hugh A. Thomas

Anthony D. Thomas
Anthony D. Thomas, MBA
Commissioner Nominee
Virgin Islands Department of Property and Procurement

3.19.19
Date

[INTENTIONALLY LEFT BLANK – CONTRACTOR'S SIGNATURE FOLLOWS]

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Contract for Supply of Goods
Between Department of Health and Cardinal Health P.R. 120, Inc.

CONTRACTOR

BAR
3/15/2019
3/15/19

M. Montalvo
Michele Montalvo
VP of Sales & Marketing
Cardinal Health P.R. 120, Inc.
PO Box 5021
San Juan, PR 00936-6211

03/15/19
Date

(Corporate seal, If Contractor is a corporation)



APPROVED:

[Signature]
Honorable Albert Bryan Jr.
GOVERNOR OF THE VIRGIN ISLANDS

Date: 3-21-19

APPROVED AS TO LEGAL SUFFICIENCY

DEPARTMENT OF JUSTICE BY *[Signature]* Date *03/20/19*
AAG

PURCHASE ORDER NO.

CERTIFICATE OF APPROVAL

I hereby certify that this is a true and exact copy of
Contract No. _____ entered into between the
Department of Property and Procurement and Cardinal Health
P.R. 120, Inc.

Anthony D. Thomas, MBA
Commissioner Nominee
Department of Property and Procurement

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[Signature] *03/15/19*
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